

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

CARGILL, INCORPORATED,

Plaintiff,

V.

**H & M FARMS, INC.,
KURT KROEGER, and
KATHY KROEGER,**

Defendants.

CASE NO. 8:11CV81

REASSIGNMENT ORDER

H & M FARMERS, INC.,

Plaintiff,

V.

**CARGILL, INCORPORATED, a
foreign corporation, and
LEON VANDEN BERGER,**

Defendants.

CASE NO. 8:12CV101

REASSIGNMENT ORDER

This matter is before the Court on the Defendants’ Motion for Determination of Place of Trial (Filing No. 143 in Case No. 8:11CV81). Cargill, Incorporated (“Cargill”), filed this action in Omaha, but did not specify a place of trial in the Complaint. (See NECivR 40.1(b): “The plaintiff at the time of filing a complaint in a civil action . . . must request in writing trial in Omaha, Lincoln, or North Platte.”) The Clerk calendared the case in Omaha, pursuant to NECivR 40.1(c). (“If the parties make no initial request, the clerk calendars a case in the city where the case is filed.”) In the Defendants’ Answer and Counterclaim, they demanded a trial by jury in Lincoln. (Filing No. 23 at 17.) The Progression Order

(Filing No. 55) set the jury trial in Omaha, to commence during the week of September 18, 2012.

Defendants now move for a determination of the place of trial, and have submitted evidence demonstrating that the causes of action arose in Howard County, Nebraska, and the convenience of the parties and witnesses would be served by trial in Lincoln and not Omaha. (Filing No. 145-1.) Cargill does not object to trial in Lincoln, but “does not consent to any continuance of the trial that may be required to accommodate a change of the location of trial.” (Filing No. 146 at 2.)

The Court agrees that the convenience of the parties and witnesses will be served by trial in Lincoln, which is closer to Howard County. Although this case was scheduled for trial during the week of September 18, 2012, it was among several trials scheduled for the undersigned judge during that week, and was not first on that list. Also, several motions filed by the parties recently became ripe for review, and the disposition of those motions may affect the trial schedule.

The Defendants’ Motion for Determination of Place of Trial will be granted, and trial will take place in Lincoln. To conserve judicial resources, the case will be reassigned to Senior District Judge Richard G. Kopf for disposition and Magistrate Judge Cheryl Zwart for judicial supervision and processing of all pretrial matters. H&M Farms, Inc. v. Cargill, Incorporated, et al., 8:12cv-101, a related case, also will be reassigned to Senior District Judge Richard G. Kopf for disposition and Magistrate Judge Cheryl Zwart for judicial supervision and processing of all pretrial matters.

IT IS ORDERED:

1. Defendants' Motion for Determination of Place of Trial (Filing No. 143 in Case No. 8:11CV81) is granted;
2. Lincoln, Nebraska, is the designated place of trial; and
3. The above-captioned cases are reassigned to Senior District Judge Richard G. Kopf for disposition and Magistrate Judge Cheryl Zwart for judicial supervision and processing of all pretrial matters.

DATED this 21st day of June, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge